



ATTENTION

Probate cases on this calendar are currently under review by the probate examiners. Review of some probate cases may not be completed and therefore have not been posted.

If your probate case has not been posted please check back again later.

Thank you for your patience.

**Petition to Determine Administration Expenses Allocable to Encumbered Property
Prior to Satisfaction of Lien, and for Deposit of Purchase Money with Court in
Satisfaction of Lien and Expenses [Prob. C. 10361.5, 10362]**

DOD: 11-23-06		TRO restraining Trustee's Sale and further Proceedings Regarding Premises at 4086 W. San Jose, Fresno, CA extended to 12-2-13. Petitioner states one of the assets of the estate is real property located at 4086 W. San Jose in Fresno, originally appraised at \$275,000.00 at Decedent's date of death. Due to the decline in the real estate market, and based on Internet valuation website, Petitioner believes the house is valued at this time at approx. \$133,000.00. Decedent's spouse Maria Raquel Petrogonas ("Raquel") has continued to reside in the residence and on 8-24-10 was granted a probate homestead. At the date of death, the house was encumbered in the initial amount of \$91,751.00, with the mortgage payable at a rate of \$848.26/month. During the initial period of estate administration, the Administrator made payments from estate funds, and later, Raquel made payments to the Administrator for the mortgage. Raquel's sole source of income is Social Security Disability payments of only \$850/month. The property subsequently went into default. Anticipating funds from the sale of properties in Argentina and/or Greece, Petitioner advanced \$7,650 to cure the default on the loan. When the estate was unable to pay property taxes and/or insurance, the bank subsequently raised the monthly payment to more than \$1,600.00. Petitioner tried on numerous occasions to negotiate a loan modification with Bank of America, who steadfastly refused to consider it. The current arrearages are \$19,327.00 and the present balance due is \$47,565.64 (Exhibit C). A Trustee's (foreclosure) sale was set for 11-29-12. Petitioner states the estate has incurred substantial administrative expenses with respect to the administration of this property and brings this petition pursuant to Probate Code § 10361.5 to determine the amount of expenses of administration reasonably associated with the administration of the encumbered property, and to determine the expenses of the sale payable from the sales proceeds. In the event the property is sold, whether at Trustee's sale or otherwise, the estate lacks assets to pay administration expenses and seeks an order determining same. SEE PAGE 2
Cont. from 011713, 032113, 042513, 050913, 062013, 071813, 101713, 120213, 012714		
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NEEDS/PROBLEMS/COMMENTS: Minute Order 1-17-13: The Court directs Mr. Knudson to submit a declaration specifically outlining what is happening in the other jurisdictions that would preclude further inventory and appraisals. Matter continued to 3/21/13. Mr. Knudson is directed to provide Mr. Lucich notice of the next hearing. The temporary restraining order restraining the trustee's sale is extended to 3/21/13. Continued to 3/21/13. Minute Order 3-21-13: Ms. Hubbell is appearing specially for Thomas Agawa. Joint request for continuance. Matter continued to 4-25-13. TRO remains in full force and effect and is extended to 4-25-13. Minute Order 6-20-13: Mr. Knudson is also appearing specially for Edward Treder. Mr. Knudson advises the Court that they are still working on settling this matter. Mr. Knudson requests a continuance. Matter continued to 7/18/13. The TRO is extended to 7/18/13. Continued to 7-18-13 Note: Points and Authorities in Support of Petition were filed 3-19-13 by Attorney Knudson. See file. Reviewed by: skc Reviewed on: 2-4-14 Updates: Recommendation: File 3A - Petrogonas		

Petitioner states the expenses of administration reasonably related to the administration of the encumbered property are \$46,167.18, computed at Exhibit E, which includes:

- Estimated statutory fees allocable to the property, based on the estimated current value;
- Extraordinary fees payable to Petitioner and his attorney for the sale of the property at a minimal rate pursuant to Local Rule 7.18;
- Filing fees;
- Additional attorney's fees incurred in bringing this petition, together with costs advanced; and
- Expenses paid for the care preservation and maintenance of said property during the course of administration, including mortgage payments, homeowner's insurance and property taxes.

No additional expenses of sale are requested at this time. If the property is ultimately sold pursuant to the power of sale under the deed of trust, said expenses will be borne by the Bank. However, if Petitioner is successful in negotiating a short sale or otherwise reaching accommodation with the lender, this petition will be amended accordingly.

Petitioner will incur additional charges in serving notice of hearing on this petition and may incur additional attorney's fees for appearing at the hearing(s) on this petition. Said additional fees will be presented in a supplement to this petition prior to the hearing date.

Petitioner requests the Court order that following the hearing and approval of this petition, any proceeds of sale be paid to the clerk of the court to be disbursed as provided in Probate Code § 10362 as follows:

- First in payment of costs of administration attributable to this property;
- Second towards payment of the lien held by Bank of America, and thereafter
- To lenders with secured interests in the property, including Paul A. Dictos (\$7,650.00) and Atkinson, Andelson, Loya, Ruud and Romo (\$106,767.00)

Petitioner requests:

1. That the Court determine the amount of expenses of administration reasonably related to the administration of the encumbered property;
2. That the Court determine the expenses of sale of said property, if any there be;
3. That the Court order the proceeds from the sale to be paid to the Clerk of the Court to be disbursed as provided in Probate Code § 10362
4. For an order that upon such payment the lien on the property be discharged; and
5. For such further orders that the Court may deem proper.

Bank of America, N.A., Respondent/Secured Party filed:

- **Memorandum of Points & Authorities in Response to Petition to Determine Administrative Expenses Pursuant to Cal. Prob. Code §§ 10361.5, 10362**

Respondent requests the Court deny any order compelling Respondent to accept less than the entire amount due under its security interest and/or deny any order requiring a Reconveyance of its lien, and further deny Petitioner any fees and costs claimed to be related to the sale and administration of the property, particularly any fees and costs derived from proceeds from the sale of Respondent's secured property. See pleading for details.

- **Request for Judicial Notice in Support of its Response to Petition to Determine Administrative Expenses Pursuant to Cal. Evid. Code §§ 452(c), (g), 453 & Appendix of Exhibits**
12 exhibits provided. See pleading for details.

Status Hearing Re: Stipulation

DOD: 11-23-06		<p>PAUL A. DICTOS, Administrator with Limited IAEA and bond of \$100,000.00, filed Petition to Determine Administration Expenses Allocable to Encumbered Property Prior to Satisfaction of Lien, and for Deposit of Purchase Money with Court in Satisfaction of Lien and Expenses, which petition was originally heard on 1-17-13, and continued numerous times, finally to 1-27-14. See Page 3A.</p> <p>The Court also granted a Temporary Restraining Order pending these proceedings, which has been extended to 1-27-14.</p> <p>BANK OF AMERICA, N.A., Respondent / Secured Party, filed a response on 1-14-13.</p> <p>Pursuant to Minute Order 7-18-13, both counsel concur that the petition was premature and continuance was needed to list the property.</p> <p>On 12-2-13, the Court confirmed the sale of the real property for \$165,000.00. On that date, Mr. Knudsen advised the Court that he anticipates a stipulation with regard to the above-referenced petition. The Court continued the petition to 1-27-14 (Page 3A, which is the 9th hearing on the petition), and also set this status hearing re stipulation.</p> <p>As of 1-22-14, nothing further has been filed.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Minute Order 1-27-14: Mr. Markeson is appearing specially for Attorney David Knudson. The Court is informed that the stipulation is being circulated.</p> <p>1. Need written status report per local rules.</p>				
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Update: Status Report filed 1-24-14 states that at the hearing on 12-2-13, the Court confirmed the sale of the property for \$165,000. At the hearing, Attorney Edward Treder for B of A represented that he was reviewing final numbers for the demand for payoff on its promissory note. Final numbers have been reached, and with the assistance of Fidelity Title, a proposed stipulation (attached) is being circulated wherein the parties stipulate to payment of a specific amount for administrative expenses attributable to the real property, as initially urged in the petition, B of A receives its full demand in satisfaction of its promissory note, the promissory note of Paul A > Dltos, representing personal funds advanced for payment of property taxes, shall be paid out of the portion of the funds allocable to the estate, and the balance of proceeds shall be allocated 42% to Atkinson, Andelson, et al towards payment of their promissory note secured by deed of trust against real property, and 48% to Maria Raquel Petragonas, decedent's spouse, in full satisfaction of her homestead rights with respect to the property.

Note: A proposed Order Approving Stipulation is provided; however, the stipulation is not yet signed. It appears it would be premature to approve the stipulation at this time, as it appears to deal with issues outside the scope of this petition, possibly having to do with final distribution.

Additional Note: Due to the last minute filing of this document, Examiner has not had time to review the stipulation with regard to the allocation of the balance in connection with the Atkinson Andelson et al DOT and homestead rights. It appears this has more to do with some future final distribution than with the petition at hand re expenses allocable from the sale of the property to the estate. The Court may wish to review further. Again, as noted above, we do not have any final I&A and the petition for final distribution has not been filed.

**Petition for Termination of Proceedings Due to Lack of Assets and Discharge of the
Personal Representative**

DOD: 6-24-07		<p>DANA HOLMES, Daughter, and Administrator with Full IAEA without bond, is Petitioner.</p> <p>Petitioner states that despite the efforts of the personal representative to sell the property and prevent foreclosure, the home was lost to foreclosure in August 2012.</p> <p>Regarding the other assets subject to administration: The vehicle was repossessed by the loan holder and the furniture was donated due to poor condition.</p> <p>Pursuant to Probate Code §12251, Petitioner prays for an order:</p> <ol style="list-style-type: none"> 1. Terminating the proceedings due to lack of assets; 2. Discharging the personal representative; 3. Any other orders the Court deems appropriate. 	<p>NEEDS/PROBLEMS/COMMENTS:</p> <ol style="list-style-type: none"> 1. A Creditor's Claim was filed 11-21-07 for \$14,586.74 by Bank of America FIA Card Services NA. It does not appear that this claim was ever addressed by the Administrator. Therefore, the creditor is entitled to notice of this hearing pursuant to Probate Code §11000. The Court may require continuance for service. 2. Letters issued in 2007. Petitioner states the house was foreclosed upon in August 2012. The Court may require an accounting or clarification regarding the administration of the estate during that five year time period. Was the house occupied? Was rent collected? What was the reason for the delay in closing the estate? 	
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			<p>Reviewed by: skc</p> <p>Reviewed on: 2-4-14</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 5 – Vinson</p>	